



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,672	12/19/2000	Bart Buijsse	PHQ 99-015	7057
24737	7590	05/16/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			YUN, JURIE	
P.O. BOX 3001			ART UNIT	
BRIARCLIFF MANOR, NY 10510			PAPER NUMBER	
			2882	

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

22

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/741,672	Applicant(s) BUIJSSE, BART	
	Examiner Jurie Yun	Art Unit 2882	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding the objection to the specification for use of the term "curvilinear", the objection is withdrawn in view of applicant's arguments.

Noda does not teach or suggest that an electron beam could be used with only a series of droplets as argued by applicant. Noda teaches use of a continuous stream as a modification (see column 6, lines 19-22). Thus, Noda does not disclose use of an electron beam with only a series of droplets as argued by applicant. It is agreed that Hertz discloses use of a laser beam, and does not disclose use of an electron beam, but Noda was shown to teach use of an electron beam as an alternative to use of a laser beam. This rejection is maintained.

Applicant argues the finality of the previous office action to be in error because it was not necessitated by any amendments made by the applicant. However, this is not the case. See applicant's amendment filed 12/7/05 with the newly added limitation of a lens and a detector.

With respect to claim 8, applicants argue that Wang does not disclose a scanning electron microscope. However, Wang does disclose a scanning electron microscope (see column 1, lines 50+). Furthermore, that fact that Wang's microscope uses a foil target is not pertinent, as Wang was only relied upon for teaching a scanning electron microscope. This rejection is maintained.

Applicants arguments regarding the combination of Wang and Iketaki are not persuasive in that these arguments are not pertinent to the rejection. Iketaki was relied upon solely for the teaching of a condenser lens disposed between the fluid jet and an object to be imaged. This is taught to be used for better imaging of transmission X-rays. The fact that Wang and Iketaki use different sources to generate X-rays is not pertinent. Specifically, the fact that Wang positions the target adjacent to the sample is not pertinent, as Wang was only relied upon for teaching of an electron gun. This rejection is maintained.